IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MERCIER'S INCORPORATED,	*	
	*	
Plaintiff	*	
v.	*	**CIVIL NO. WMN-15-2706**
GERALD L. REEVES *et al.*,	*	
	*	
Defendants	*	
	*	

* * * * * * * * * * * *

ORDER

On September 14, 2015, Plaintiff Mercier's Incorporated ("Plaintiff") filed a Verified Complaint for Injunctive Relief against Defendants Gerald L. Reeves and Brian Alexander ("Defendants"). (ECF No. 4.) On that same date, Plaintiff filed a Motion for Temporary Restraining Order and Preliminary Injunction. (ECF No. 3.) The Court held a hearing on September 16, 2015, pursuant to Federal Rule of Civil Procedure 65. For the reasons explained below, Plaintiff's Motion for Temporary Restraining Order will be DENIED.

Federal courts have long recognized that the grant of interim equitable relief is an "extraordinary remedy involving the exercise of a very far-reaching power." *Direx Israel, Ltd. v. Breakthrough Med. Corp.*, 952 F.2d 802, 811 (4th Cir. 1991). A plaintiff seeking such relief must establish that he is "likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. NRDC, Inc.*, 555 U.S. 7, 20 (2008).

In this case, Plaintiff seeks to enforce certain noncompete and nonsolicitation provisions contained within restrictive covenants signed by both Defendants in their former capacities as employees of Plaintiff. (ECF No. 3–1 at 3-6.) As for Defendant Alexander, Plaintiff has clearly not established the need for a temporary restraining order. Assuming Alexander's sworn statement in a forthcoming affidavit is consistent with the statements proffered in court today, Alexander is not currently employed by any competitor of Plaintiff's. There is no indication that Alexander's present conduct poses a risk of irreparable harm to Plaintiff.

As for Defendant Reeves, the fact that his recently formed Ohio limited liability company, AFH Services, secured a contract with a former Mercier's customer (*id.* at 8-9) is potentially problematic. However, the Court observes that (1) Plaintiff did not actually bid on the contract in question and (2) Plaintiff has proffered no evidence of other instances in which Reeves or AFH Services have conducted business with customers of Mercier's. Plaintiff's remaining allegations are simply too speculative to warrant injunctive relief at this stage.

Moreover, the Court is unprepared to determine now that the restrictive covenant, as written, is probably enforceable against Reeves, given that Plaintiff terminated Reeves's employment without cause and without severance compensation. Reasonable restrictive covenants may be enforceable in Maryland—but only if they "do not impose undue hardship on the employee." *Ruhl v. F.A. Bartlett Tree Expert Co.*, 225 A.2d 288, 291 (Md. 1967).

Although the Court today holds that Plaintiff has not satisfied its heavy burden of justifying a need for the "extraordinary remedy" of a temporary restraining order, the Court hastens to add that it makes no assessment as to which party may ultimately prevail on the merits. Moreover, based on the record before it, the Court deems appropriate an expedited discovery schedule followed by a hearing to consider preliminary injunctive relief.

Accordingly, and in consultation with Judge William M. Nickerson, it is ORDERED as follows:

1. Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction (ECF No. 3) is DENIED;
2. Defendant Alexander shall file an affidavit attesting to his present employment situation on or before September 17, 2015, at 5:30 p.m.;
3. The parties shall proceed with expedited discovery comprising five (5) interrogatories and six (6) hours of depositions on each side; and
4. A hearing is set in for October 8, 2015, at 10:00 a.m., before Judge Nickerson, at which time Judge Nickerson will determine whether preliminary injunctive relief is proper, particularly in light of the factual record that develops through discovery.

DATED this 16th day of September, 2015.

BY THE COURT:

/s/

James K. Bredar
United States District Judge